HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.NO. 24592 OF 1998

DATED: 27.6.2007

Between:

The Depot Manager, APSRTC, Narayankhed,
Medak District

… Petitioner

and

K.S. Reddy and another

… Respondents

HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.NO. 24592 OF 1998

ORAL ORDER:

This writ petition filed by the APSRTC is directed against the Award of the Labour Court-II, Hyderabad dated 10.1.1997 in I.D.No.75 of 1995.

The 1st respondent-workman had lodged a claim under Section 2-A (2) of the Industrial Disputes Act, 1947 (for short 'the Act'), seeking invalidation of the orders removing him from service as a Conductor of the Corporation, with all consequential benefits.

The Labour Court found no procedural infirmity in the domestic inquiry, which led to the order of removal. The main charge against the workman was that he failed to punch four (4) tickets of Rs.1.50 ps denomination each and three (3) tickets of Rs.2/- denomination each giving rise to a suspicion that he intended to re-issue the tickets. He was also charged with having given contradictory statements at the spot verification and in the explanation to the charge-memo.

The bus being conducted by the workman was checked by the vigilance staff and serious ticketing irregularities were seen to have

been committed by the workman. After a due process of inquiry, he was visited with the penalty of removal from service. Thus, he lodged a claim before the Labour Court.

The Labour Court concurred with the conclusions in the domestic inquiry, finding the workman guilty of the charges levelled. The Labour Court also held that a careful scrutiny of the material on record reveals that the statement of checking officials and the other witnesses, read along with the various explanations submitted by the workman, establish the guilt of the workman. Having concurred with the findings in the domestic inquiry that the workman was guilty of serious ticketing irregularities involving grave financial impropriety, the Labour Court perversely concluded that the punishment of removal was disproportionate to the charges, on the ground that the amounts involved were paltry.

The question in all cases of misappropriation is not the quantum of the amount misappropriated, but that misappropriation itself is a grave misconduct. The workman being a mere Conductor could not be expected to have committed financial irregularities of massive amounts. Within the limits of his opportunity, he tried his best and his effort resulted in a severe and serious financial irregularity. This is the concurrent finding of the departmental inquiry and the labour court. For such misconduct, a capital service punishment was legitimate and proportionate. The Labour Court's conclusion to the contrary is perverse and cannot be sustained.

The writ petition deserves to be allowed and is accordingly allowed. The Award of the Labour Court dated 10.1.1997 in I.D.No.75 of 1995 is quashed. No costs.

GODA RAGHURAM, J

Date: 27.6.2007

CVM